

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON AND VALDOSTA DIVISIONS**

**UNITED STATES OF AMERICA,**

v.

**BROOKS E. BLITCH III,**

Defendant.

CASE NO. 5:08-CR-40-1 (HL)

**ORDER**

This case is before the Court on the Recommendation of United States Magistrate Judge Charles H. Weigle (Doc. 407). Judge Weigle recommends that Defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Doc. 397) be granted. Judge Weigle also recommends that Defendant's motion to vacate be construed as a motion for writ of *coram nobis*, as it applies to the noncustodial aspects of Defendant's sentence, and that the writ be granted.

No objection to the Recommendation was filed. The Court has reviewed the Recommendation for clear error and finds none.

The Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge (Doc. 407). Defendant's Motion to Vacate (Doc. 397) is granted. Defendant's conviction and sentence are vacated and set aside. Further, the writ of *coram nobis* is granted as to the non-custodial aspects of the sentence. The Government has 60 days under the law to appeal this Order. If the Government fails to exercise its right to appeal, it shall repay to Defendant all

sums paid by Defendant on account of his fine and special assessment not later than ten days after the expiration of the appeal period.

**SO ORDERED**, this the 15<sup>th</sup> day of February, 2012.

*s/ Hugh Lawson*  
**HUGH LAWSON, SENIOR JUDGE**

mbh